

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5654

PETITION OF MARION W. SOUTHWORTH

(Hearing held October 3, 2001)

OPINION OF THE BOARD

(Effective date of Opinion, November 2, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The proposed enclosure of an existing screened porch requires a 3.70 feet variance as it is within 3.30 feet of the side lot line. The required setback is seven (7) feet.

Robert R. Lowe, the petitioner's contractor, appeared with the petitioner at the public hearing.

The subject property is Parcel 3, Chevy Chase Section 4 Subdivision, located at 7105 Ridgewood Avenue, Chevy Chase, Maryland, in the R-60 Zone (Tax Account No. 711465872).

Decision of the Board: Requested variance **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner testified that she proposes to enclose an existing screened porch.
2. The petitioner testified that residence was built in 1925 and that the screened porch was a part of the residence's original construction. The screened porch is currently located in the side yard setback.
3. The petitioner testified that the enclosure of the porch will not expand the structure's existing footprint and that the design and the materials to be used will match the architectural style of the house. The petitioner testified that the enclosure of the screened porch is typical of other improvements made in the neighborhood.
4. Lisa Flores, an adjoining neighbor on Parcel 4, appeared at the public hearing. Ms. Flores testified that she had no objections to the enclosure of the screened porch, but that she did have concerns about the potential for the construction of a second story. Ms. Flores testified that a second story would block the light in her kitchen and would be located very close to her bedroom.

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The screened porch has existed for approximately 75 years and the structure is located in the setback. The enclosure of the screened porch will not expand the existing footprint. The Board finds that these conditions are peculiar to the property and that the strict application of the regulations would result in practical difficulties for and an undue hardship upon the petitioner were the variance to be denied.

- (b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the requested variance for the enclosure of a screened porch is the minimum reasonably necessary to overcome the unique conditions of the property.

- (c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The proposed construction will continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

- (d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The Board finds that the enclosure of the screened porch will not be detrimental to the use and enjoyment of the adjoining and neighboring properties. The Board notes that the proposed construction is for a one-story addition only and would not adversely impact the use and enjoyment of the adjoining property owner.

Accordingly, the requested variance of 3.70 feet from the required seven (7) foot side lot line setback for the enclosure of an existing screened porch is granted subject to the following conditions:

1. The petitioner shall be bound by all of her testimony and exhibits of record, and the testimony of her witnesses, to the extent that such evidence and representations are identified in the Board's Opinion granting the variance.

2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4 and 5(a) through 5(c).
3. Enclosure of screened porch is limited to a one-story addition.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Allison Ishihara Fultz, with Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution. Board member Donna L. Barron was necessarily absent and did not participate in this Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 2nd day of November, 2001

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.